IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6736 OF 2006

Shri Naresh Maruti Singanapure ..Petitioner

Vs.

Tukaram Nivrutti Singanapure & Ors. ..Respondents

Mr.Umesh Mankapure for the petitioner

CORAM : A.P.DESHPANDE, J

DATED : 27TH NOVEMBER, 2006

P.C.:

1. The present petitioner is the original plaintiff who instituted a suit against the original defendants for declaration and permanent injunction. Alongwith the plaint, the petitioner also moved an application claiming temporary injunction seeking to restrain the defendants from carrying out any construction. The trial court restrained the defendants from raising any construction adjoining to the northern wall of the plaintiff. However, it made it clear that if at all the defendants want to carry out construction, the same shall be so done by keeping a minimum

distance of 5 ft from the north wall of the plaintiff. This order came to be upheld in the Misc.Civil Appeal by the District Judge by dismissing the appeal filed by the petitioners and the writ petition filed by the petitioners met with the same fate as that of the appeal and came to be dismissed. The order dt.11.11.05 passed by the trial court has attained finality. The suit property came to be measured by Cadastral Surveyor, who was appointed pursuant to the liberty granted by this court in the writ petition. After the measurements were taken, the defendants started the construction by keeping in between a distance of more than 5 ft. from the northern wall of the plaintiff. When the plaintiff obstructed the defendants from doing so, which is permitted by the trial court, the defendants moved an application for police protection and the trial court has allowed the said application. Aggrieved thereby, this writ petition has been filed.

2. Perused the order. No fault can be found with the order passed by the Civil Judge, Jr.Division, Atpati dt.28.9.06. It dies not suffer

from any illegality or impropriety. Allowing the police aid is with a view to seek compliance of the order passed by the trial court which is maintained by the High Court. Hence, writ petition is summarily dismissed.

(SHRI A.P.DESHPANDE, J)